

**Proposed Substitute  
Bill No. 5563**

LCO No. 3244

**AN ACT CONCERNING RESIDENTIAL PROPERTY ASSESSED  
CLEAN ENERGY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-121n of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective January 1, 2017*):

3 (a) As used in this section:

4 (1) ["Energy improvements"] "Qualifying improvements" means any  
5 renovation or retrofitting of qualifying real property to reduce energy  
6 consumption or installation of a [renewable energy] system for clean  
7 energy, as defined in section 16-245n, or customer-side distributed  
8 resources, as defined in section 16-1, permanently fixed to such  
9 qualifying real property to service qualifying real property, [provided  
10 such renovation, retrofit or installation is permanently fixed to such  
11 qualifying real property;] including, but not limited to, related  
12 improvements to address water conservation, waste reduction, health  
13 and safety issues, including, but not limited to, asbestos, mold and  
14 lead remediation, and resiliency measures, including, but not limited  
15 to, flood-resistant construction and hurricane resistant construction;

16 (2) ["Qualifying real property"] "Qualifying residential real  
17 property" means a single-family or multifamily residential dwelling

18 [or a nonresidential building, regardless of ownership, that a  
19 municipality has determined can benefit from energy improvements]  
20 of four or fewer units that meets the qualifications established for the  
21 residential sustainable energy program;

22 (3) "Property owner" means an owner or owners of qualifying  
23 residential real property who [desires] desire to install [energy]  
24 qualifying improvements and [provides] who provide free and willing  
25 consent to the contractual assessment against the qualifying residential  
26 real property; [and]

27 [(4) "Sustainable energy program" means a municipal program that  
28 authorizes a municipality to enter into contractual assessments on  
29 qualifying real property with property owners to finance the purchase  
30 and installation of energy improvements to qualifying real property  
31 within its municipal boundaries.]

32 (4) "Residential sustainable energy program" means a program that  
33 facilitates qualifying improvements and utilizes the benefit assessment  
34 authorized by this section as security for the financing of qualifying  
35 improvements;

36 (5) "Municipality" means a municipality, as defined in section 7-369;

37 (6) "Benefit assessment" means the assessment authorized by this  
38 section;

39 (7) "Participating municipality" means a municipality that has  
40 entered into a written agreement, as approved by its chief officer or its  
41 legislative body, with the bank pursuant to which the municipality has  
42 agreed to assess, collect, remit and assign benefit assessments to the  
43 bank in return for qualifying improvements for benefited property  
44 owners within such municipality and costs reasonably incurred in  
45 performing such duties;

46 (8) "Bank" means the Connecticut Green Bank; and

47 (9) "Third-party capital provider" means an entity, other than a

48 bank, that provides financing, leases or power purchase agreements  
49 directly to benefited property owners for qualifying improvements.

50 [(b) Any municipality, that determines it is in the public interest,  
51 may establish a sustainable energy program to facilitate the increase of  
52 energy efficiency and renewable energy. A municipality shall make  
53 such a determination after issuing public notice and providing an  
54 opportunity for public comment regarding the establishment of a  
55 sustainable energy program.]

56 (b) (1) The bank shall establish a residential sustainable energy  
57 program in the state. In furtherance of such program, the bank is  
58 authorized to make appropriations for and issue bonds, notes or other  
59 obligations for the purpose of financing (A) qualifying improvements,  
60 (B) related energy audits, and (C) verification reports of the installation  
61 and effectiveness of such improvements. The bank may encourage  
62 third-party capital providers to provide financing directly to benefited  
63 property owners in lieu of or in addition to the bank providing such  
64 financing. The bonds, notes, other obligations or other financing  
65 provided by third-party capital providers may be secured as to both  
66 principal and interest by a (i) pledge of the liens, (ii) such other  
67 collateral, and (iii) revenues to be derived from the residential  
68 sustainable energy program, including revenues from benefit  
69 assessments on qualifying residential real property, as authorized in  
70 this section.

71 (2) When the bank or third-party capital provider has made  
72 appropriations for qualifying improvements for qualifying residential  
73 real property, the participating municipality in which the qualifying  
74 residential real property is located shall, upon notice from the bank or  
75 third-party capital, levy a benefit assessment against the qualifying  
76 residential real property benefited by such qualifying improvements.

77 (3) Any such renovation, retrofit or installation shall be permanently  
78 fixed to such property but may include (A) the property owners share  
79 of ancillary construction costs to extend the energy infrastructure as  
80 necessary to enable the clean energy or distributed energy

81 improvement, (B) a third-party ownership arrangement, including, but  
82 not limited to, a power purchase agreement and a lease agreement,  
83 provided the duration of any such third-party ownership agreement is  
84 not less than the lesser of the average estimated useful life of the  
85 principal components or ten years, and (C) subscribership in a shared  
86 clean energy facility, as defined in public act 15-113.

87 [(c) Notwithstanding the provisions of section 7-374 or any other  
88 public or special act that limits or imposes] (4) The bank shall develop  
89 program guidelines governing the terms and conditions [on municipal  
90 bond issues, any municipality that establishes a sustainable energy  
91 program under this section may issue bonds, as necessary, for the  
92 purpose of financing (1) energy improvements; (2) related energy  
93 audits; and (3) renewable energy system feasibility studies and the  
94 verification of the installation of such improvements. Such financing  
95 shall be secured by special contractual assessments on the qualifying  
96 real property] under which funding may be made available to the  
97 residential sustainable energy program, in consultation with  
98 representatives from the banking industry, municipalities and  
99 property owners, and serving as an aggregate entity for the purpose of  
100 securing state and private third-party financing for qualifying  
101 residential real property especially benefited thereby.

102 (5) The bank shall adopt general standards establishing eligible  
103 qualifying improvements products and measures that satisfy energy  
104 savings, water conservation or other clean energy sustainability or  
105 resiliency goals consistent with the purpose of the residential  
106 sustainable energy program.

107 (6) The bank (A) shall establish, in consultation with the Department  
108 of Banking, a loan loss reserve or other credit enhancement program  
109 for qualifying residential real property, and (B) may use the services of  
110 one or more private, public or quasi-public third-party administrators  
111 to administer, provide support or obtain financing for the residential  
112 sustainable energy program.

113 (7) The bank shall adopt consumer protection standards in

114 consultation with the Department of Banking with which any third-  
115 party capital provider or private, public or quasi-public third-party  
116 administrator shall demonstrate compliance before participating in the  
117 residential sustainable energy program.

118 (8) The bank shall adopt, in consultation with the Department of  
119 Banking, qualifications for third-party capital providers to participate  
120 in the residential sustainable energy program.

121 (9) The residential sustainable energy program shall comply with all  
122 federal directives or guidelines with regard to the property-assessed  
123 clean energy model for residential properties.

124 [(d) (1) Any municipality that establishes a sustainable energy  
125 program pursuant to this section may partner with another  
126 municipality or a state agency to (A) maximize the opportunities for  
127 accessing public funds and private capital markets for long-term  
128 sustainable financing, and (B) secure state or federal funds available  
129 for this purpose.

130 (2) Any municipality that establishes a sustainable energy program  
131 and issues bonds pursuant to this section may supplement the security  
132 of such bonds with any other legally available funds solely at the  
133 municipality's discretion.

134 (3) Any municipality that establishes a sustainable energy program  
135 pursuant to this section may use the services of one or more private,  
136 public or quasi-public third-party administrators to provide support  
137 for the program.]

138 [(e)] (c) Before establishing a program under this section, the  
139 [municipality] bank shall provide notice to the electric distribution  
140 company, as defined in section 16-1, that services the municipality.

141 [(f)] (d) If the property owner [of record of qualifying real property]  
142 requests financing from the bank or a third-party capital provider, for  
143 [energy improvements] qualifying improvements under this section,  
144 the [municipality implementing the sustainable energy program] bank

145 shall:

146 [(1) Require performance of an energy audit or renewable energy  
147 system feasibility analysis on the qualifying real property before  
148 approving such financing;

149 (2) Enter into a contractual assessment on the qualifying real  
150 property with the property owner in a principal amount sufficient to  
151 pay the costs of energy improvements and any associated costs the  
152 municipality determines will benefit the qualifying real property and  
153 may cover any associated costs;]

154 [(3)] (1) Impose requirements and criteria to ensure that the  
155 proposed [energy] qualifying improvements are consistent with the  
156 purpose of the residential sustainable energy program; and

157 [(4)] (2) Impose requirements and conditions on the financing to  
158 ensure timely repayment, including, but not limited to, underwriting  
159 criteria and procedures for placing a lien on [a] the qualifying  
160 residential real property as security for [which an owner defaults on]  
161 repayment of the benefit assessment.

162 (e) (1) The bank or the third-party capital provider may enter into a  
163 financing agreement with the property owner of qualifying residential  
164 real property. After such agreement is entered into, and upon notice  
165 from the bank, the participating municipality shall (A) place a caveat  
166 on the land records indicating that a benefit assessment and a lien are  
167 anticipated upon completion of qualifying improvements for such  
168 property, or (B) at the direction of the bank, levy the benefit  
169 assessment and file a lien on the land records based on the estimated  
170 costs of the qualifying improvements prior to the completion or upon  
171 the completion of such improvements.

172 (2) The bank, or the third-party capital provider, shall disclose to the  
173 property owner the costs and risks associated with participating in the  
174 residential sustainable energy program and the terms and conditions  
175 of the assessment, including, but not limited to, term, payments and

176 remedies for default and foreclosure. Such costs and risks include, but  
177 are not necessarily limited to, (A) the failure of the property owner to  
178 pay the benefit assessment, (B) the benefit assessment remaining on  
179 the property until satisfied, (C) the potential to impede the sale of the  
180 property, (D) the potential for violation of certain provisions under any  
181 existing indebtedness secured by the benefited property, and (E) the  
182 potential for the assessment to be paid off when such indebtedness is  
183 refinanced or when the property is sold. The bank, or the third-party  
184 capital provider, shall disclose to the property owner entering into a  
185 financing agreement the effective interest rate of the benefit  
186 assessment, including, but not limited to, fees charged by the bank or  
187 the third-party capital provider to administer the program. The bank  
188 or the third-party capital provider shall notify the property owner that  
189 such owner may rescind any financing agreement entered into  
190 pursuant to this section not later than three business days after  
191 entering into such agreement.

192 [(g)] (f) Prior to entering a contractual assessment, the [municipality]  
193 bank or third-party capital provider shall provide each property owner  
194 the following notice, which shall be set forth in at least fourteen-point  
195 bold type: SEEK LEGAL ADVICE BEFORE PARTICIPATING IN THIS  
196 LOAN PROGRAM TO ENSURE UNDERSTANDING OF POTENTIAL  
197 CONSEQUENCES, INCLUDING A POSSIBLE DEFAULT UNDER  
198 YOUR MORTGAGE.

199 [(h)] (g) Any benefit assessment levied pursuant to this section shall  
200 have a term not to exceed the [calculated payback period for] lesser of  
201 (1) the average estimated useful life of the installed [energy] qualifying  
202 improvements, as determined by the [municipality, and shall have no  
203 prepayment penalty. The municipality] bank or a contractor eligible to  
204 install such improvements under the residential sustainable energy  
205 program, or (2) twenty-five years. The bank or the third-party capital  
206 provider shall set a fixed rate of interest for the financing provided or a  
207 fixed payment schedule for leases, power purchase agreements or  
208 other such approved financing structures for the repayment of the  
209 principal assessed amount at the time the benefit assessment is made.

210 Such interest rate, as may be supplemented with state or federal  
211 funding as may become available, shall be sufficient to pay the  
212 financing costs of the program, including delinquencies.

213 [(i) Assessments] (h) Benefit assessments levied pursuant to this  
214 section and the interest, fees and any penalties thereon shall constitute  
215 a lien against the qualifying residential real property on which they are  
216 made until they are paid. [Such lien] If the agreement for the benefit  
217 assessment provides, the benefit assessment shall be [levied and] paid  
218 in installments and each installment payment shall be collected in the  
219 same manner as the [general] property taxes of the participating  
220 municipality on real property, including, in the event of default or  
221 delinquency, [with respect to] any penalties, fees and remedies. [and  
222 lien priorities, provided such lien shall not have priority over any prior  
223 mortgages.]

224 [(j) The area encompassing the sustainable energy program in a  
225 municipality may be the entire municipal jurisdiction of the  
226 municipality or a subset of such.]

227 (i) Each such lien levied through the residential sustainable energy  
228 program shall be recorded and released in the manner provided for  
229 property tax liens and shall be subordinate to all liens on the  
230 qualifying residential real property in existence at the time the lien for  
231 the assessment is filed on the property. Each such lien levied through  
232 the residential sustainable energy program shall be superior to any  
233 other lien on the qualifying residential real property recorded after  
234 such filing except a (1) first mortgage on the property, and (2) lien for  
235 taxes of the municipality on real property. To the extent a benefit  
236 assessment is paid in installments and any such installment is not paid  
237 when due, the benefit assessment lien may be foreclosed, or enforced  
238 by levy and sale of such real property in accordance with chapter 204,  
239 to the extent of any unpaid installment payments and any penalties,  
240 interest and fees related thereto. If such benefit assessment lien is  
241 foreclosed, or enforced by levy and sale of the real property in  
242 accordance with chapter 204, such benefit assessment lien shall survive



243 the judgment of the foreclosure, or levy and sale, to the extent of any  
244 unpaid installment payments of the benefit assessment secured by  
245 such benefit assessment lien that was not the subject of such judgment,  
246 or levy and sale. The form of collector's deed set forth in section 12-158  
247 shall be used in a levy and sale of real property to satisfy a benefit  
248 assessment lien.

249 (j) A participating municipality shall assign to the bank, or the third-  
250 party capital provider as applicable, any liens filed by the tax collector  
251 pursuant to this section, as provided in the written agreement between  
252 the participating municipality and the bank. The bank or third-party  
253 capital provider may sell or assign, for consideration, any and all liens  
254 received from the participating municipality at its sole discretion. The  
255 assignee or assignees of such liens shall have and possess the same  
256 powers and rights at law or in equity as the participating municipality  
257 and its tax collector would have had if the lien had not been assigned  
258 with regard to the precedence and priority of such lien, the accrual of  
259 interest, and the fees and expenses of collection. The assignee shall  
260 have the same rights to enforce such liens as any private party holding  
261 a lien on real property, including, but not limited to, foreclosure and a  
262 suit on the debt. In accordance with subsection (h) of this section, the  
263 assignee shall also have the right to enforce the lien through the levy  
264 and sale procedure under chapter 204. Costs and reasonable attorneys'  
265 fees incurred by the assignee as a result of any foreclosure action or  
266 other legal proceeding brought pursuant to this section and directly  
267 related to the proceeding, including costs and fees incurred in  
268 enforcement of the lien by the levy and sale under section 12-140 and  
269 subsection (c) of section 12-157, shall be taxed in any such proceeding  
270 against each person having title to any property subject to the  
271 proceedings. Such costs and fees may be collected by the assignee at  
272 any time after demand for payment has been made by the assignee.

273 *Sec. 2. (Effective January 1, 2017) On or before July 1, 2017, the*  
274 *Connecticut Green Bank shall submit a report, in accordance with the*  
275 *provisions of section 11-4a of the general statutes, to the joint standing*  
276 *committees of the General Assembly having cognizance of matters*

277 relating to banking and energy and technology, summarizing the  
278 progress of its residential sustainable energy program in the state.  
279 Such report shall be submitted annually.

280 Sec. 3. Subdivision (24) of section 36a-485 of the general statutes is  
281 repealed and the following is substituted in lieu thereof (*Effective from*  
282 *passage*):

283 (24) "Residential mortgage loan" means any loan primarily for  
284 personal, family or household use, except financing under a  
285 sustainable energy program pursuant to section 7-121n, as amended by  
286 this act, that is secured by a mortgage, deed of trust or other equivalent  
287 consensual security interest on a dwelling or residential real estate  
288 upon which is constructed or intended to be constructed a dwelling;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017</i>	7-121n
Sec. 2	<i>January 1, 2017</i>	New section
Sec. 3	<i>from passage</i>	36a-485(24)

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